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October 11, 1963.

The Honorable Commissioner,
Mr. Lancelot J. Smith, F.C.A. Chairman,
The Ontario Commission on Taxation,
88 University Avenue,
Toronto 1, Ontario.

Dear Sir:

The Ontario Municipal Purchasing Agent's Association presents herewith its brief dealing with the 3% Ontario Retail Sales Tax as it applies to municipalities. This matter is of serious concern to every official charged with the responsibility of spending municipal funds in the province, as it effects the day-to-day efforts on behalf of his municipality to spend each tax dollar wisely. From our experience, the following are some observations of the existing application to municipalities, of The Ontario Retail Sales Tax Act.

THE ADMINISTRATIVE BURDEN

I Casual Sales

Municipalities are required to collect and submit Tax on a variety of items such as voter's lists, planning department drawings, tender documents. In each case a Tax is imposed on a commodity sold as a service and definitely not as a profit making venture. For example, a municipality with a gross annual budget of $30,000,000.00 has a total sale of taxable merchandise of approximately $2,000.00 per annum on which $60.00 is collected for Tax purposes. This represents minor revenue to the provincial government. The percentage commission allowed does not compensate the municipality for its administrative cost. We feel that the cost of administration both at the municipal and provincial level, renders the collection of this tax uneconomical.

II Warehousing & Jobsite Materials

Under present regulations there are refunds available to municipalities on a variety of materials dependant upon their end use. For example: Repair parts for fire trucks and road cleaning equipment and many items that enter into and become part of real property which are carried as warehouse items or are delivered to the jobsite. The

municipality will pay the tax at the time of purchase and prepare a refund claim on the rebateable items. This results in monies being paid to the Provincial Government and after much administrative detail, are subsequently refunded to the municipal treasury.

III Contracts

Municipalities entering into real property contracts are required to pay O. R. S. T. and submit rebate claims on the basis of 1. 125% or 1. 25% of basically the gross contract price. Here again we have the municipality paying taxes and filing for refund.

The following solutions are offered for your consideration:

(a) Exempt municipalities from the Provincial Sales Tax. This may sound impractical. We recognize that the Provincial Government requires additional revenue, however, would it not be less cumbersome for the local government to be exempt from payment of tax and to receive proportionally smaller grants from the Provincial Government.

(b) The local government to pay Provincial Sales Tax on everything, the provincial government to make a yearly grant to each municipality based on a percentage formula similarly used on roads, bridges and sewer contracts, namely 1. 125% or 1. 25%. It is suggested the figure to be taken into consideration to arrive at the necessary formula would be the total annual budget for current expenditure plus the total annual expenditures for capital budget to be debentured for any one fiscal year. This association would deem it a privilege to assist in the compilation of this data.

It is anticipated that either of the above mentioned solutions will materially reduce the administrative detail of the Ontario Retail Sales Tax Act at both levels of government.

May we request that when the Committee on Taxation reviews this submission, we be afforded the opportunity of attending.

Respectfully submitted,

R. A. Higgins,
Secretary-Treasurer,
O. M. P. A. A.

D. G. Mansfield,
President,
O. M. P. A. A.

Mr. H. R.Hanson

February 27th, 1964.

Mr. David Mansfield,
President,
Ontario Municipal Purchasing Agents' Association,
P. O. Box 40,

St. Catharines, Ontario.

Dear Mr. Mansfield:-

We have received twelve copies of the additional information requested by our Chairman, Mr. L. J. Smith, together with your letter of February 26, 1964.

I am sure that our Chairman and the other members of the Committee will be most pleased to have the views and evidence of difficulties in connection with sales tax rebates, and I will see to it that the copies you provided are distributed to the Commissioners, and staff.

Yours very truly,

F. H. Hurst

Executive Director.

FHH/MJC

Mr. H. R.Hanson

FEB 27 1964

ONTARIO MUNICIPAL PURCHASING AGENTS' ASSOCIATION

A Section of
The Ontario Municipal Association

February 26, 1964.

The Honorable Commissioner,
Mr. Lancelot J. Smith, F.C.A., Chairman,
The Ontario Committee on Taxation,
88 University Avenue,
Toronto 1, Ontario.

Dear Sir:

During the audience you and the Commissioners afforded the delegation of the Ontario Municipal Purchasing Agents, you requested a further brief to support our submission on the Ontario Provincial Retail Sales Tax.

A letter went forth to various members throughout Ontario to get a cross section opinion representative of Cities, Towns and Townships. I believe the following replies will outline the problems we all experience in the administration of the Ontario Provincial Retail Sales Tax Act.

1. From Mr. D.W. Farmer, Treasurer, The Town of Burlington.

Mr. Farmer stresses the administrative burden of the Sales Tax and in particular the problems created by the claims for rebate. Not only does this create considerable extra work for both the municipal staff and the staffs of the Retail Sales Tax Branch but it results in the Municipality having to finance the amounts of the claim from the time payment is made until the rebate is received.

It does not seem practical to me to suggest that any program created by Provincial Government action should create extra work of a purely administrative nature. I am always pleased to see a make work program where the work is productive but extra paper work can never be classed as productive.

2. From Mr. R.A. Higgins, Purchasing Agent, The Town of Burlington.

Mr. Higgins reports their Supervisor - Accounting, Mr. Peter J. Morgan, C.A., states two full days per month is involved in the preparation of their Retail Tax Rebate Claims. The Audit Claim Branch in Hamilton do not expect to visit his office until April to check the documents supporting their claim submitted in November, 1963. They received their first refund of $229.71 in August of 1962 and a second refund of $2,972.96 in December of 1962. No further refunds to claims submitted, have been received as of February 3, 1964.

3. From Mr. A.C. Manning, Purchasing Agent, The City of Fort William.

Requests a complete up-to-date revision issued covering munitipal items and to have the Provincial Retail Sales Tax Branch advise O.M.P.A.A. of current changes and interpretations of the Act so that O.M.P.A.A. could circularize this information to its members.

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4. From Mr. A.G. Trickey, Deputy Commissioner of Finance, The City of Hamilton.

One of the major difficulties in applying for rebates for the construction of structures such as sewage treatment plants, sewage and pumping stations, artificial skating rinks, etc., is that the Province provides for a rebate on the structures only, and excludes the cost of equipment. The interpretation of equipment is vague. The contracts for the foregoing projects generally include the construction of the building and the equipment. It is difficult to separate the cost of the building and the cost of equipment. The cost of equipment and building should both be eligible for rebate on these projects.

The ruling of the auditors that no rebate will be paid until an actual payment has been made for the construction of the project, delays the claiming of rebates. Certain major projects require considerable expense for engineering, which is subject to rebate, however, no rebate will be paid for engineering until a payment has been made to the contractor for the construction.

The Province, to our knowledge, has no detailed instructions defining the types of projects subject to a rebate of tax. We are informed that the cost of fence posts are subject to a rebate, however, the fence itself is not eligible. Also the posts for traffic or street signs are subject to a rebate, but the signs themselves are not. The necessity of compiling the breakdown of such expenditures is rather ridiculous.

The audit procedure is too cumbersome and requires extensive checking by the auditors.

The auditors are required to examine the following:

(a) The original signed contract between the City and the contractor.
(b) Payrolls and other sources of charges for work done by the City's own forces.
(c) Invoices and payment vouchers.
(d) Cancelled cheques.
(e) Inspection of certain projects at the site of construction.

The City of Hamilton's first claim included 414 construction projects, including local improvements, and 109 different ledger accounts for repairs. Due to the volume of projects the information required by the Province presents a tremendous task for their auditors.

In view of the fact that the Province of Ontario is providing subsidies to municipalities amounting to 47% of the Province's 1963 revenues, it appears absurd to require the municipalities and provincial auditors to spend such a volume of time compiling claims and examining various documents as required by the Retail Sales Tax Branch.

The City of Hamilton has received payment for our first two claims. The rebate amounted to $53,000.00 and covered approximately a 12 month period. We have submitted eight additional claims requesting a rebate of $74,000.00. These claims have not been audited to date.

I understand the Retail Sales Tax Branch is discussing with the Department of Highways, the possibility of the Department of Highways' auditors approving the rebate for Retail Sales Tax on the expenditures that are eligible for roadway subsidy. I presume, under this proposal, the municipalities roadway subsidy claim would also be used for the paying of the rebate of sales tax. However, this procedure could also be complicated as certain expenditures eligible for roadway subsidy are not subject to a rebate of sales tax. The municipalities would still be

required to claim separately, those expenditures subject to a rebate of sales tax that are not included in the roadway subsidy claim.

5. From Mr. R.R. Tuokko, Purchasing Agent, The City of Port Arthur.

A ruling of the Retail Sales Tax Branch provides that a Municipality or other eligible organization purchasing materials to be incorporated into real property using its own labour force may calculate the rebate claimed under Regulation 20 in one of the following ways:

(a) Claim a rebate of the actual tax paid on the purchase of materials that entered into and became part of the real property construction.
(b) Claim the rebate in accordance with the appropriate percentage listed under Regulation 20 (4) applied to the total cost of the real property construction, including total material cost, labour cost and the cost of on-the-job supervision.

The procedure to be followed in the last method is relatively simple, but if the procedure outlined in (a) is followed, some serious complications arise when materials for capital construction or repairs are drawn from Stores Inventory.

The Audit Section of the Retail Sales Tax Branch requires that claims for materials drawn from Stores must be verified by the job work order, inventory stock record, and the invoice rendered for the purchased material. This procedure entails a tremendous amount of administrative detail, and the work involved in applying for such rebates negates to a great extent the monetary return as this procedure is used mainly for small rebates in connection with repairs to real property.

6. From Mr. D.G. Mansfield, Purchasing Agent, The City of St. Catharines,

In filing refund claims for Capital Works projects, which may extend over a period of one or two years, the municipality is obliged to have large sums of money on "deposit" with the Provincial Treasury pending settlement of a refund. Some claims take a year or more to be audited and refunded after the claim is filed. A further delay develops if the claim is not filed until the project is completed as is often the case. Monies on "deposit" with the Provincial Treasury do not earn interest for the municipalities.

My claims for refunds on Capital Works for the Subdividers share and the Ratepayers' share under the Local Improvement Act have been disallowed. However rebates have been made for the total cost of projects under the Local Improvement Act in other municipalities of Ontario. It would appear that the Provincial Audit staff are not given the same instructions or Policy Decisions or perhaps the interpretation of the Act is left to the discretion of area audit staff. In any event the whole project ultimately becomes the responsibility of the municipality who have to maintain it and I would suggest the whole project should be subject to rebate.

Another example of a lack of communicating or interpretation of the Policy Decisions of the Retail Sales Tax Act pertains to a ruling I obtained, dated July 25, 1962, from Mr. Donald Beach, C.A., Principal Tax Compliance Officer, Ontario Retail Sales Tax Branch, Toronto, Ontario, on the repair parts for fire fighting equipment. When a claim I had submitted on April 2, 1963 remained unpaid in December, I wrote the Provincial Office enquiring of same. A letter from Mr. R.B. Walker, Principal Tax Auditor, advised repair parts for fire trucks are not eligible for rebate. I therefore forwarded a copy of Mr. Beach's ruling and a refund

cheque was subsequently received. Here is an instance where two senior officials of the Retail Sales Tax Branch in the office of the Provincial Comptroller of Revenue do not know what decisions or rulings have been made.

Generally the Provincial office refers you to their area branch office however it has been my experience that you can get two different interpretations from the field man and the auditor assigned to look after you and an entirely different interpretation from the Manager of the area branch office. This further complicates the problems municipalities are faced with.

You never know how much of your claim will be refunded until the rebate cheque arrives. In municipal financing where debentures have to be issued to raise money for payment of Capital Works, any moneys not refunded reflects on the amount of money to be raised through local taxes. By the same token municipalities issuing debentures on capital works projects for the full amount required, pay principal and interest on the portion of the Retail Sales Tax included in the cost. The usual term of such debentures is 10 to 20 years. A municipality is therefore paying interest at 6 percent or more for the term of the debenture issue on the amount of Sales Tax included in the cost.

Municipalities operating a stores or warehouse and buying repair parts common to several pieces of equipment, are faced with additional clerical detail. Parts for repairs to Fire Fighting and Road Cleaning Equipment are exempt of the tax. Records must be subjected to audit before refunds are made; for example on a set of spark plugs for a fire truck engine which may also be used in an identical engine in a dump truck.

7. From Mr. A.L. Johnson, Purchasing Agent, The Township of Scarborough.

Mr. Johnson lists three examples, as follows:

Case 1. In a large municipality manhole and catch basin castings are purchased and carried as a stock item. When they are used on roads or sewers they can be classified as becoming part of real property and therefore applicable for Provincial tax rebate. However, castings can be used in parks - which are not classified as real property and therefore not exempt from Provincial tax. This places an additional administrative burden on the municipality to keep records of where each individual casting is used.

Case 2. Traffic Paint --- again traffic paint is bought and carried as a stock item, with Provincial tax being paid at the time of purchase. Traffic paint that is used on a new road is considered to be "part and parcel" of real property and a rebate claim may be filed. Traffic paint used for the annual maintenance of white lines on roads is considered to be a "repair or maintenance" item and is not subject to rebate. Again, individual records must be kept by a municipality to decide which roads fall into the individual classification. An academic point also arises here of what is a new road? Is it an entirely new road where one did not exist before - or what happens when a road is completely re-surfaced?

Case 3. Paint for Bridges: The painting of a new bridge again becomes part of real property and can be tax rebateable. The same paint is carried in stock for the maintenance of bridges and is not tax rebateable. Additional paper work is required to segregate.

8. From Mr. N. E. Burbridge, Purchasing Agent, The City of Windsor.

The labour involved in processing a multitude of invoices for claims, produces very little in net revenue and when one couples our efforts with those of the province, there is little doubt in my mind that a considerable amount of administrative expense, at both the municipal and provincial level could be eliminated by adopting section B of paragraph III Contracts of your brief. (Mr. Burbridge is referring to the O.M.P.A.A. submission)

The Provincial Sales Tax Auditors have extended exemption on items which we construed as not being rebatable and conversely have disallowed claims for exemption on other items. This situation is brought about by the improper interpretation of what constitutes Tangible Personal Property.

Our non-capital works claims from September 1961 to August 31, 1963 have totalled approximately $3,800.00 and I would estimate the cost to administer the claim to be at least 60% of that figure. Add to that, the administration costs of the Province and I think you will agree, all we are doing is creating labour.

A breakdown of Capital Works Claims from September 1961 to August 31, 1963, reveals the following:

Claimed under the 1.25% formula $17,055.85 of which $16,873.89 was rebated.
Claimed under the 1.125% formula $12,427.86 of which $11,805.87 was rebated.

9. From Mr. W. G. Boland, Co-ordinator of Purchasing, The City of Ottawa.

One of the seemingly unnecessary procedures is that the local auditors must do a complete audit of all cheques on any given claim. It seems to us that this is unnecessary. Surely a spot check would be quite sufficient or the presentation of proof of a final payment cheque.

A good deal of extra work is involved due to the fact that the Province will not honour rebates on holdbacks. When a project is complete to the point that all payment has been made except for the holdback, it is quite obvious that all the Provincial tax involved will have been paid by the contractor. To defer refunding this portion of the tax simply complicates things both for the Provincial authorities and for the municipality, with no good purpose being served to either.

The group here who are responsible for sales tax rebate claims, feel that the best solution would be for an appropriate percentage to be applied on the total construction project cost as it appears in our ledger accounts, claiming either quarterly, semi-annually or annually with the claim being honoured by the Province as submitted, subject to an annual audit, by the Provincial auditors when they perform their audit in connection with other provincial/municipal grants. This would greatly simplify procedures for both the province and the municipality and is certainly the most effective way of handling the tax short of cancellation.

I trust the above comments will serve to illustrate the complexities and the administrative burden imposed upon over 975 Ontario municipalities with the present regulations of the Ontario Provincial Retail Sales Tax Act.

Respectfully submitted,

R. A. Higgins, Secretary-Treasurer,
The Ontario Municipal Purchasing
Agents Association.

D. G. Mansfield, President,
The Ontario Municipal Purchasing
Agents Association.

Mailing Address: D. G. Mansfield, Purchasing Agent, Post Office Box 40, St. Catharines, Ont.
R. A. Higgins, Purchasing Agent, Post Office Box 160, Burlington, Ont.